



## **PLANNING COMMISSION AGENDA**

**Wednesday, August 23, 2006**

6:30 p.m. Regular Meeting  
Council Chambers  
City Hall Wing

200 East Santa Clara Street  
San Jose, California

**Xavier Campos, Chair**  
**James Zito, Vice-Chair**

**Dang T. Pham      Bob Dhillon**  
**Christopher Platten**  
**Ash Kalra      Matt Kamkar**

**Joseph Horwedel, Acting Director**  
**Planning, Building and Code Enforcement**

## NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

## NOTICE TO THE PUBLIC

Good evening, my name is **Xavier Campos** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of **Wednesday, August 23, 2006**. Please remember to turn off your cell phones and pagers. Parking ticket validation machines for the garage under City Hall are located at the rear of the Chambers. If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the AV technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4a, not PD06-023.**

The procedure for this hearing is as follows:

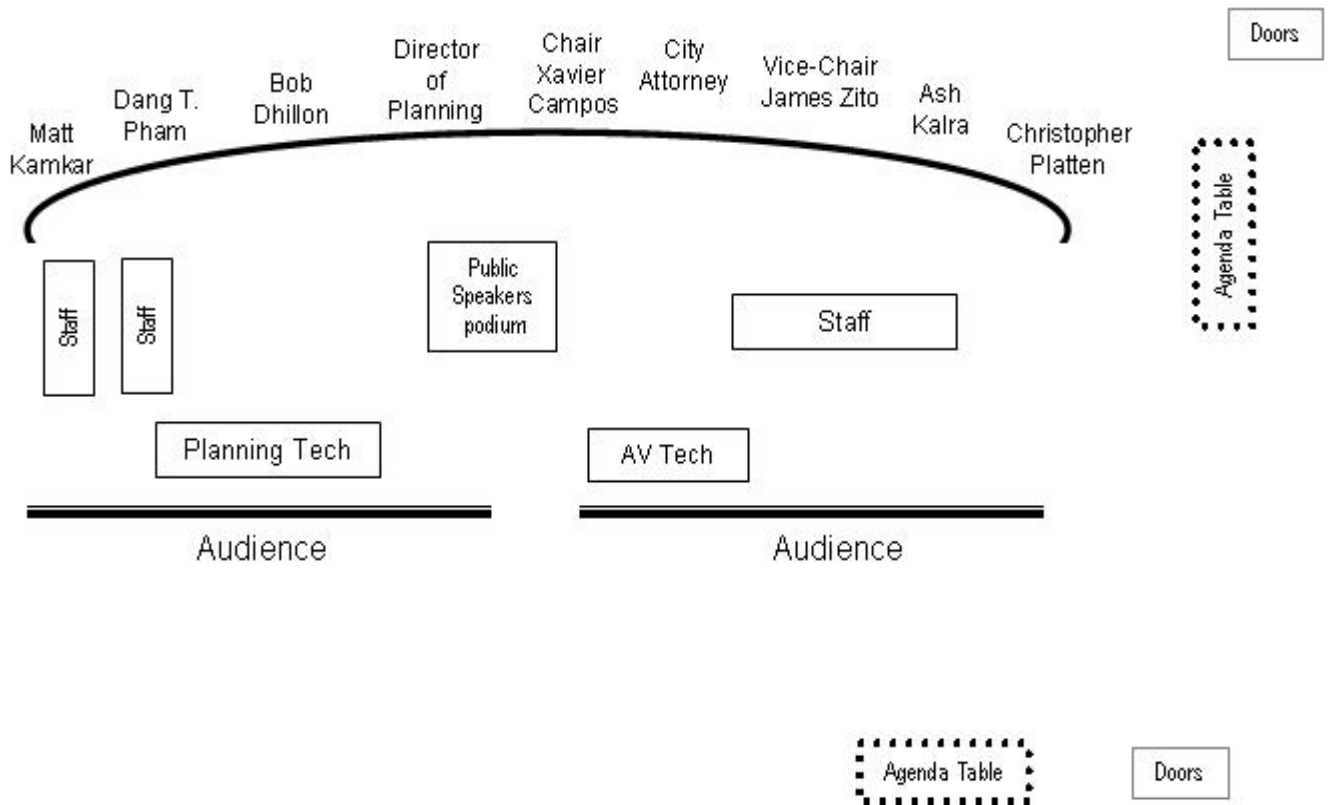
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

**If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.**

**The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items.** Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

**Note:** If you have any agenda questions, please contact Olga Guzman at [olga.guzman@sanjoseca.gov](mailto:olga.guzman@sanjoseca.gov)

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San Jose Planning Commission generally meets every 2<sup>nd</sup> and 4<sup>th</sup> Wednesday at 6:30 p.m., unless otherwise noted. The remaining meeting schedule is attached to this agenda and the annual schedule is posted on the web at <http://www.sanjoseca.gov/planning/hearings/index.htm> Staff reports, etc. are also available on-line. If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

**AGENDA**  
**ORDER OF BUSINESS**

**1. ROLL CALL**

**2. DEFERRALS**

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

- a. **H05-006**. APPEAL of the Planning Director's decision to approve a Site Development permit to allow the construction of 41,705 square feet of additions to an existing shopping mall (Westgate West Shopping Center) and allow facade and site modifications on a 18.9 gross acre site, in the CG Commercial General Zoning District, located on East side of Lawrence Expressway, between Graves Avenue and Prospect Road (West Valley properties, Owner). Council District 1. SNI: None. CEQA: Mitigated Negative Declaration. Deferred from 5-3-06 and 6-5-06.

**DEFER TO 9-27-06**

- b. **An Ordinance amending Title 21** of the San Jose Municipal Code, the Zoning Code, to add a new section and amending section 21.06.030 of Chapter 21.06 of Title 21, all related to providing for an additional appeal to the City Council of certain environmental clearance determinations. CEQA: Not a Project. Deferred from 8-9-06.

**DEFER TO 9-13-06**

- c. **CP06-019**. Conditional Use Permit to allow the installation of a 42-foot-high wireless communications monopole and associated ground-level equipment cabinets (approximately 300 sq.ft.) on a 0.70 gross acre site in the CN Neighborhood Commercial Zoning District, located on north side of East Capitol Expressway, approximately 400 feet westerly of McLaughlin Avenue (1033 E Capitol Expressway) (Mastumoto Melvin F Trustee & Et Al, Owner). Council District 7. SNI: None. CEQA: Exempt.

**DEFER TO 8-23-06**

### 3. CONSENT CALENDAR

#### NOTICE TO THE PUBLIC

**The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.**

**Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.**

- a. [CPA05-039-01](#). Conditional Use Permit Amendment for minor modification to the hours of operation, age limit, and alcohol service at an existing eating, drinking and entertainment establishment on a 0.27 gross acre site in the DC Downtown Primary Commercial Zoning District, located on east side of S. 1<sup>st</sup> Street, approximately 70 feet southerly of San Salvador Street (417 S. 1<sup>st</sup> Street) (Rosicki Jacek And Ann C, Owner). Council District 3. SNI: None. CEQA: Exempt.

**Staff Recommendation:**

Approve a Conditional Use Permit Amendment for minor modification to the hours of operation, age limit, and alcohol service as recommended by Staff.

- b. [ABC06-016](#). Liquor License Exception Permit for a Determination of Public Convenience or Necessity to allow the off-sale of alcoholic beverages in an approved retail building on a 39.1 gross acre site (San Jose Market Center Pad 4) in the A(PD) Planned Development Zoning District, located on south side of Coleman Avenue opposite Seymour Street (9681 TRACT) (Cousins San Jose Market Center LLC, Owner). Council District 3. SNI: None. CEQA: San Jose Market Center Project Final EIR Resolution No. 72396, File No. PDC04-018.

**Staff Recommendation:**

Approve a Liquor License Exception Permit for a Determination of Public Convenience or Necessity to allow the off-sale of alcoholic beverages in an approved retail building as recommended by Staff.

**The following items are considered individually.**

### 4. PUBLIC HEARINGS

- a. The projects being considered are located on west side of Bird Ave, approximately 800 feet southerly of Willow Street (1215 Bird Avenue) (Arlotta Anthony A, Owner). Council District 6. SNI: None. CEQA: Exempt. Deferred from 8-9-06.
1. [CP06-031](#). Conditional Use Permit to allow the conversion of 12 apartments to residential condominiums on a 0.46 gross acre site in the R-M Multiple Residence Zoning District.

**Staff Recommendation:**

Approve a Conditional Use Permit to allow the conversion of 12 apartments to residential condominiums as recommended by Staff.

2. [T06-034](#). Tentative Map to reconfigure one parcel for 12 condominium units on a 0.46 gross acre site

**Staff Recommendation:**

Approve a Tentative Map to reconfigure one parcel for 12 condominium units as recommended by Staff.

- b. [CP06-015](#). Conditional Use Permit for the off-sale of beer and wine for an existing retail store on a 5.18 gross acre site in the CN Neighborhood Commercial Zoning District, located on the south side of Story Road approximately 200 feet west of South King Road (Dollars Market-1604 Story Road)(Dennis Fong, Owner). Council District 7. SNI: K.O.N.A., East Valley/680 Communities. CEQA: Exempt.

**Staff Recommendation:**

Deny a Conditional Use Permit for the off-sale of beer and wine for an existing retail store as recommended by Staff.

- c. [PD03-021](#). ORDER TO SHOW CAUSE for failure to comply with the requirements of Planned Development Permit File No. PD03-021 for a banquet facility within an existing warehouse/office building on the property located on the south side of Murphy Avenue, approximately 400-feet easterly of Oakland Road (1180 Murphy Avenue). The facility has been used in a manner that violates the conditions of the subject Planned Development Permit including, but not limited to, conditions limiting noise and the hours of operation, and prohibiting the creation of a public or private nuisance. Therefore the Planning Commission of the City of San Jose will consider an Order to Show Cause why the Planned Development Permit shall not be revoked, modified, or amended. (Bhupindar Dhillon, owner) A(PD) Planned Development. Council District 4. SNI: None. CEQA: Exempt.

**Staff Recommendation:**

Approve modifications to the Planned Development Permit as recommended by Staff.

- d. [CP03-010](#). COMPLIANCE HEARING to assess the compliance of the Fiesta Nightclub with the previous conditions of approval and to impose new conditions or restrictions as deemed appropriate for the previously approved Conditional Use Permit, which allowed an entertainment/ drinking establishment and operation after midnight on a 2.16 gross acre site in the CN Neighborhood Commercial Zoning District, located at the northeast corner Monterey Road and Rancho Drive (3844 MONTEREY RD) (HAWARI DERAR AND RABAB, HAWARI ALEX, Owner; FIESTA CLUB/MIGUEL SANDOVAL, Developer). Council District 7. SNI: None. CEQA: Addendum to ND. Deferred from 8-9-06.

**Staff Recommendation:**

Consider the Mitigated Negative Declaration in accordance with CEQA. Planning staff recommends that the Planning Commission accept the compliance report and require that the applicant comply with all of the specified conditions within 60 days of the acceptance of this report. Further, staff recommends that additional conditions, as noted in the memorandum to the Commission, be incorporated into the previous Conditional Use Permit approval.

- e. [PDC05-042](#). Planned Development Rezoning from CG Commercial General Zoning District to A(PD) Planned Development Zoning District to allow up to 29 single-family attached residences on a 0.69 gross acre site, located on the south side of Balbach Street approximately 150 feet easterly of Almaden Avenue (180 Balbach St.) (Taylor Daniel B And Elizabeth E Et Al, Owner; Patrick Sargent, Developer). Council District 3. SNI: Market/Almaden. CEQA: Mitigated Negative Declaration.

**Staff Recommendation:**

Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend to the City Council approval of a Planned Development Rezoning from CG Commercial General Zoning District to A(PD) Planned Development Zoning District to allow up to 29 single-family attached residences as recommended by Staff.

- f. [PDC06-054](#). Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow incidental auto service and detail uses in a new approximately 8,000 square foot building, in addition to the existing commercial, automobile dealership, and parking uses currently permitted on a 1.46 gross acre site, located at the southwest corner of Ardis Avenue and Stevens Creek Boulevard (3370 Stevens Creek Bl) (Homara Hooshang And Manizheh Trustee, Owner). Council District 1. SNI: None. CEQA: Exempt.

**Staff Recommendation:**

Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend to the City Council approval of a Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow incidental auto service and detail uses as recommended by Staff.

- g. [PDC06-010](#). Planned Development Prezoning from County to A(PD) Planned Development Zoning District to allow up to 7 single-family attached residences on a 0.4 gross acre site, located on the east side of Page Street, approximately 200 feet southerly of Douglas Street (426-428 PAGE ST) (Soltanzad Farhang and Najmi Fahry, Owner/Developer). Council District 6. SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration.

**Staff Recommendation:**

Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend to the City Council approval of a Planned Development Prezoning from County to A(PD) Planned Development Zoning District to allow up to 7 single-family attached residences as recommended by Staff.

## **5. PETITIONS AND COMMUNICATIONS**

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

1. Responding to statements made or questions posed by members of the public; or

2. Requesting staff to report back on a matter at a subsequent meeting; or
3. Directing staff to place the item on a future agenda.

6. **REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES**

7. **GOOD AND WELFARE**

- a. Report from City Council
- b. Commissioners' reports from Committees:
  - Norman Y. Mineta San Jose International Airport Noise Advisory Committee (Campos).
  - Coyote Valley Specific Plan (Platten)
  - Evergreen East Hills Vision Strategy Task Force (Zito)
  - Parks Funding Subcommittee (Zito)
- c. Review of synopsis
- d. Recommend a Planning Commission member, and an alternate, to participate as part of the selection process in the recruitment for the Director of Planning, Building and Code Enforcement.

8. **ADJOURNMENT**



## 2006 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 11	6:30 p.m.	Regular Meeting	Council Chambers
January 25	6:30 p.m.	Regular Meeting	Council Chambers
February 8	CANCELLED	Regular Meeting	Council Chambers
Thurs. February 16	6:30 p.m.	Regular Meeting	Council Chambers
February 22	6:30 p.m.	Regular Meeting	Council Chambers
March 8	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
March 22	5:00-6:20 p.m.	<i>Study Session</i>	T-332
Discussion of additional parkland and open space for the City ( <i>Joint session with Parks Commission</i> )			
March 22	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
April 12	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
April 26	6:30 p.m.	Regular Meeting	Council Chambers
May 3	5:00 p.m.	<i>Study Session</i>	T-1654
<i>Review Capital Improvement Program</i>			
May 3	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
May 24	CANCELLED	<i>Study Session</i>	T-332
<i>Joint study session with Parks Commission</i>			
May 24	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
May 31	CANCELLED	Regular Meeting	Council Chambers
June 5	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
June 14	6:30 p.m.	Regular Meeting	Council Chambers
June 28	6:30 p.m.	Regular Meeting	Council Chambers
July 12	6:30 p.m.	Regular Meeting	Council Chambers
July 26	6:30 p.m.	Regular Meeting	Council Chambers
August 9	5:00 p.m.	<i>Study Session</i>	T-1654
<i>Joint study session with Parks Commission</i>			
August 9	6:30 p.m.	Regular Meeting	Council Chambers
August 23	6:30 p.m.	Regular Meeting	Council Chambers
September 13	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
September 27	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
October 11	6:30 p.m.	Regular Meeting	Council Chambers
October 25	6:30 p.m.	Regular Meeting	Council Chambers
November 8	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
November 15	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
December 6	6:30 p.m.	Regular Meeting	Council Chambers